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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,269	03/24/2004	Mike Hertel	801-1001	4106
38209	7590	12/12/2007		
STANZIONE & KIM, LLP 919 18TH STREET, N.W. SUITE 440 WASHINGTON, DC 20006			EXAMINER HOLLOWAY III, EDWIN C	
			ART UNIT 2612	PAPER NUMBER
			MAIL DATE 12/12/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/807,269

Applicant(s)

HERTEL ET AL.

Examiner

Edwin C. Holloway, III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17, 33-38, 58 and 75-77 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17, 33-38, 58 and 75-77 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) ✓
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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EXAMINER'S RESPONSE

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9-19-07 has been entered. Claims 1-17, 33-38, 58 and 75-77 are pending. Claims 18-32, 39-57 and 59-74 have been canceled. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's position that the claims are unpatentable for the reasons set forth in this Office action:

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1-5 and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A) in combination with Dawson (US005170431A), Bucholtz (US005422632A) and Miron (US005477041A).

Clemens discloses security system with an electronic key

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reader 20' sending a code to a control unit (remote switch) 30 that controls a critical part of a manual key K operated unit I. See figs. 1C, 3A and cols. 8-11. Clemens does not expressly disclose a microprocessor.

Dawson discloses an analogous art security system that may be used in a vehicle and includes a microprocessor 100 in fig. 11 and col. 2 and 4 to provide programmable control.

Bucholtz discloses an analogous art security system controlled by a microprocessor that checks for a valid key in step 110, and if valid it enables ignition for a limited time (steps 126-136). Step 128 check if for a signal indicating the ignition is turned on by used of a manual switch 42 operated by a mechanical key in col. 1 with the set time. If yes, the time is extend in step 126, if not the time is decremented. See fig. 5A. Programming keys into the system is also provided. See cols. 1-2 and 9-12.

Miron discloses an analogous art electronic key and lock system including disabling the locking device when the count of a number of key signals different from the reference signal is greater than a predetermined number based on a shut down counter in fig. 16 and cols. 21 and 30 to increase security by shutting down when tampering is detected. A limited times used function with incrementing a counter when the key is validated is also

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included in col. 19 lines 15-23. Validation requires lock time equal or less than the key expiration time. Therefore, the count is within a predetermined (expiration) time.

Regarding claims 1-2, 5, and 33-37, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Clemens the microprocessor of Dawson for programmable control that is suggested by the single semiconductor chip remote switch. The microprocessor receiving a signal indicating use of a manual or second key within a time period would have been obvious view of Bucholtz for increased security against theft. Incrementing a count in claims 1, 33, 34 and 35, is suggested by setting an invalid key flag in step 170 in step 130 of Dawson. In response to applicant's argument that Dawson sets a flag from 0 to 1 that is not a count, the examiner contends that counting from 0 to 1 is a count sufficient for the claims limitations. Nevertheless, Miron has been added to the claim rejection clearly teach lock control responsive to incrementing of a counter based on a number of uses or attempts that is greater than one and would have been obvious in the combination applied above to prevent tampering or increase security by limiting number of uses. Disabling if key used a number of times is provided by the temporary key function in steps 120-130 of Dawson and/or the

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limited times used function of Miron. Enabling for a set time would have been obvious in view of the timers in Clemens and/or Bucholtz and/or time block in Dawson and/or time limits such as 6 seconds entry time and expiration times of Miron. The methods of claims 33-37 would have been obvious in view of the flow charts of Dawson, Bucholtz and Miron showing new key detection and programming operations. Regarding claim 34, vehicle and compartment would have been obvious in view of Dawson and Bucholtz referring to ignition and door lock. Predetermined time is provided by the time limits or blocks of Clemens, Dawson Bucholtz. Regarding claims 35-37, plural compartments or rooms with plural key types would have been obvious in view of the plural key categories for to operate room door locks having matching or lower level category in col. 8 of Dawson and .

Regarding claims 3-4, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above correct/incorrect LED's as disclosed in col. 31 of Miron in order to indicate the status of the lick operation.

3. Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson (US005170431A) in combination with Miron (US005477041A).

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Dawson discloses a security system that may be used in a vehicle, building or other access area and includes a microprocessor 100 in fig. 11 and col. 2 and 4 to provide programmable control. A dual key mode 112 is provided, but does not expressly disclose detecting the keys within a predetermined time and counting number of uses of one of the keys less than a predetermined number.

Miron discloses an analogous art electronic key and lock system including disabling the locking device when the count of a number of key signals different from the reference signal is greater than a predetermined number based on a shut down counter in fig. 16 and cols. 21 and 30 to increase security by shutting down when tampering is detected. A limited times used function with incrementing a counter when the key is validated is also included in col. 19 lines 15-23. Validation requires lock time equal or less than the key expiration time. Therefore, the count is within a predetermined (expiration) time. Further, a six second time limit is provided between first and second keys for the dual key access in col. 19.

Regarding claims 38, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Dawson a predetermined time and predetermined count as disclosed in Miron for increased security against

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unauthorized use or tampering.

4. Claims 6, 8, 34 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A), Bucholtz (US005422632A) and Miron (US005477041A) as applied above and further in view of Akutsu (US 4866433).

Akutsu discloses a vehicle locking system with electronic key card controlled storage components (7,8) controlled by controller 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above storage components of Akutsu for increased security by protection of owner's valuables.

5. Claims 7, 17 and 75-77 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A), Bucholtz (US005422632A), Miron (US005477041A) and Akutsu (US 4866433) as applied above and further in view of Owen (US 4987836) or Sisak (US 3942691).

Owen discloses in col. 1 lines 10-15 that gun are commonly stored in a vehicle glove compartment. Sisak discloses in col. 1 line 25 that guns are commonly stored in vehicle trunks.

Regarding claims 7, 17 and 75-77, it would have been

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obvious to one of ordinary skill in the art at the time the invention was made to have included gun storage in vehicle compartments of Akutsu because this is well known in the art as disclosed by Owen or Sisak.

6. Claims 8-16 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Clemens (US005412378A), Dawson (US005170431A), Bucholtz (US005422632A) and Miron (US005477041A) as applied above and further in view of Benore (US005905446A).

Benore discloses a security system with plural key readers and plural lock components. See fig. 1. The lock components include code comparators, but microprocessor controllers are not expressly disclosed.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in the combination applied above the control of plural compartment of Benore for increased security and suggested by the plural door locks of Dawson.

7. Claim 75-76 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse (US005111755A) in combination with Clemens (US005412378A) and Bucholtz (US005422632A).

Rouse discloses a safe gun storage apparatus with dual

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entry locking requiring input of code number on a keyboard of a first locking system to activate a second locking system for manual manipulation of a knob to provide increased security but lacks microprocessor or key input. See the abstract and col. 1. Clemens discloses lock systems with dual key entry of an electric key and a mechanical or manufacturer key within a time limit for increased security. Bucholtz is similar to Clemens and includes microprocessor control. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included in Rouse the dual key input with microprocessor control in view of Clemens and Bucholtz for increased security as suggested by the dual entry locking of Rouse.

8. Claim 77 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rouse (US005111755A) in combination with Clemens (US005412378A) and Bucholtz (US005422632A) as applied above and further in view of Miron (US005477041A).

Miron discloses the counting limitation as discussed above.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the counting feature of Miron in the combination applied above for further security against unauthorized use or tampering.

Response to Arguments

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9. Applicant's arguments filed 9-19-07 have been fully considered but they are not persuasive and/or are moot in view of the new ground(s) of rejection.

The prior art rejections have been modified to respond to the issues raised by applicant's response. Miron is applied to clearly teach the counting operation.

In response to the argument that Akutsu lacks gun storage, The Sisak and Owen are disclosed to teach that gun storage in vehicle glove box and trunk is conventional. The argument that Akutsu is non-analogous art is not persuasive in view of these references. Further, Rouse is applied to teach dual entry locking gun safe.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

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CONTACT INFORMATION


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman, can be reached on (571) 272-3059.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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